

STATE OF FLORIDA

COMMISSIONERS:
E. LEON JACOBS, JR., CHAIRMAN
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

DIVISION OF POLICY ANALYSIS &
INTERGOVERNMENTAL LIAISON
CHARLES H. HILL
DIRECTOR
(850) 413-6800

Public Service Commission

October 22, 2001

VIA ELECTRONIC FILING

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW - TW-A325
Washington, DC 20554

Re: CC Docket No. 96-45, Federal-State Joint Board on Universal Service, Review of
the Definition of Universal Service

Dear Ms. Salas:

Forwarded herewith are comments of the Florida Public Service Commission regarding the
definition of Universal Service in the above-captioned docket.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

CBM:tf
cc: Brad Ramsay, NARUC

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matters of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Review of the Definition of)	
Universal Service)	
)	

**Florida Public Service Commission
Comments to the Federal-State Joint Board on Universal Service
on its Review of the Definition of Universal Service**

On August 21, 2001, the Federal-State Joint Board on Universal Service (Joint Board) issued a Public Notice seeking comment regarding its review of the definition of supported services to receive universal service support. In general, the Florida Public Service Commission (FPSC) believes that the current list of supported services meets the criteria established in the Telecommunications Act of 1996 (the Act) and recommends not modifying the list at this time. Specifically, the FPSC believes that expanding the definition to include advanced services is not warranted at this time because section 254(c)(1)(B) of the Act directs the Federal Communications Commission (FCC) to consider the extent to which a substantial majority of residential customers have subscribed to such telecommunications services. Furthermore, the FPSC is concerned that the effect of providing support only to carriers who provide all of the supported services would impede development of the broadband market. If the Joint Board and the FCC were to move forward with supporting some level of broadband deployment at this time, the FPSC would recommend that it do so

through a new separate mechanism that does not tie support to the provision of both broadband and voice services.

I. Background

Section 254(c)(1) of the Act states that "[u]niversal service [is] an evolving level of telecommunications services" and directs the FCC to periodically consider "advances in telecommunications and information technologies and services."¹ Section 254(c)(2) states that "[t]he Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms."²

Section 254(c)(1)(A)-(D) requires the Joint Board and the Commission to "consider the extent to which . . . telecommunications services" to be included in the definition of universal service:

- (1) are essential to education, public health, or public safety;
- (2) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (3) are being deployed in public telecommunications networks by telecommunications carriers; and
- (4) are consistent with the public interest, convenience and necessity.³

¹ 47 U.S.C. § 254(c)(1).

² 47 U.S.C. § 254(c)(2).

³ 47 U.S.C. § 254(c)(1)(A)-(D).

As noted in the FCC's First Report and Order in this docket, the legislative history of this section instructs that "[t]he definition . . . should be based on a consideration of the four criteria set forth in the subsection."⁴

Section 254(b) goes on to establish the principle that "consumers in all regions of the Nation . . . should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas. . . ."⁵

The FCC had previously designated eight "core" services that are eligible for universal service support. This decision was based on consideration of the Joint Board's recommendations made in November 1996. These services include:

- (1) single-party service;
- (2) voice grade access to the public switched telephone network;
- (3) Dual Tone Multifrequency signaling or its functional equivalent;
- (4) access to emergency services;
- (5) access to operator services;
- (6) access to interexchange service;
- (7) access to directory assistance; and

⁴ First Report and Order, FCC 97-157, May 8, 1997.

⁵ 47 U.S.C. § 254(b).

- (8) toll limitation services for qualifying low-income consumers.

The FCC recently asked the Joint Board to review this list and, if warranted, recommend modifications.⁶

II. Flexibility in Expanding the Definition

Because section 254(c)(1) uses the verb "consider," we continue to believe that the Act affords the FCC and the Joint Board flexibility in expanding the definition of supported services to include services that do not meet all four criteria.⁷ The Joint Board has been given fairly wide latitude in this area, subject primarily to a service being available from a provider and providing that federal universal service support for it is deemed to be in the public interest.

The FPSC has asked all of the carriers currently eligible to receive universal service support in Florida (i.e., eligible telecommunications carriers or ETCs) whether any services, beyond those currently being supported, have been subscribed to by 70 percent of residential customers. Based on the results to date, the FPSC has not been able to conclude that any additional service

⁶ Order, FCC 00-440, December 21, 2000.

⁷ Comments of the FPSC to the FCC in CC Docket 96-45, Filed on April 11, 1996.

has met this standard to justify being included as a supported service.

The FPSC believes that even though the FCC and the Joint Board have been granted significant flexibility over what to include in the definition, no expansion in the list of supported services is warranted at this time. Instead, the FPSC recommends that renewed efforts be exerted to promote the effective and targeted use of the low income and rural health care programs. Based on data provided by the FCC's own reports, we are concerned that these programs may not be meeting the goals set forth by Congress. We believe that focusing on existing support mechanisms serves the public interest more than adding additional services that a clear majority of the public has not selected when given the opportunity.

In addition, the FPSC would note that simply making a service eligible for support may have unintended consequences in some rural, high-cost areas that need support the most. Specifically, if an ETC has not upgraded its network to provide a newly supported service, it would not receive any support. If the Joint Board and the FCC choose to ignore our primary recommendation not to expand the definition at this time, extreme care should be exercised not to create unintended consequences that may adversely affect consumers.

Expanding the list of supported services does not mean that new services will be included in a carrier's basic service offering. We are concerned that consumers would see no real change in the retail prices charged for these newly supported services, only the availability (depending on the service).

III. Advanced Services

The Joint Board sought comments on whether any advanced or high-speed services should be included within the list of supported

services.⁸ The FPSC would oppose such a proposal based on the level of consumer demand for these services at current market rates. A recent U.S. General Accounting Office (GAO) report suggests that many consumers are unwilling to pay more for faster Internet access than what they are paying now.⁹ Specifically, 37.8 percent of those polled indicated they were unwilling to pay more than what they were currently paying for conventional dial-up Internet access. While the largest percentage of respondents were willing to pay a little more than they currently pay, the market

⁸ High-speed service is defined by the FCC as over 200 kbps in one direction, while advanced service is defined as at least 200 kbps in both directions.

⁹ United States General Accounting Office, Report to the Ranking Minority Member, Subcommittee on Telecommunications, Committee on Energy and Commerce, House of Representatives, Characteristics and Choices of Internet Users, GAO-01-345, February 2001; Question 15.

rate for DSL is higher than most consumers are willing to pay.¹⁰

This suggests that high-speed Internet access is not a service that a substantial majority of residential consumers are willing to purchase at this time.

In addition, the FPSC has concerns about the effect of providing support only to carriers that provide all of the supported services and whether it would impede development of the broadband market. While the voice telecommunications and broadband markets are converging, many broadband providers do not provide the current list of supported services. This is important since it appears that new technologies, such as Internet access via satellite, have the potential of providing high-speed access in rural, high-cost areas at lower costs than local exchange companies. Any proposal that seeks to expand the fund in such a significant way must be technologically neutral. If the Joint Board and the FCC were to move forward with supporting some level of broadband deployment at this time, the FPSC would recommend that it do so through a new separate mechanism that does not tie support to the provision of both broadband and voice services.

IV. Voice Grade Service

¹⁰ 14.3 percent stated they would be willing to pay less than \$5.00 more than what they were paying for conventional dial-up service, while 27.3 percent were willing to pay between \$5.00 and \$10.00 more. The monthly rate for America Online, a conventional dial-up ISP, is \$23.90 per month, while DSL rates range from about \$40 to \$50 per month.

As part of this public notice, the FCC and the Joint Board also invited comment to update the record on the definition of voice grade access, including whether support for a network transmission component of Internet access beyond the existing definition of voice grade access is warranted at this time. The FPSC reiterates its previous comments.¹¹

Specifically, there is pervasive apprehension among queried company representatives in Florida that additional investment is currently not recoverable under price cap regulation. It is their opinion that a change in voice grade bandwidth now would not only disrupt current business plans, but would also disrupt market developments among competitors by dictating immediate investment in one technology over any other. Telephone companies throughout Florida, as well as the nation, are in the process of reconditioning lines in an effort to improve network quality. They are also preparing for the certain market challenge of cable and wireless provision of Internet access. To force expedited change in the timing of these network upgrades could prove to be premature and unnecessary.

¹¹ Comments of the FPSC to the FCC in CC Docket No. 96-45 , Filed February 2, 2000.

The FPSC respectfully submits that the intent of improving Internet access to rural communities, like the original proposal, may well be accomplished through other means, thus making any changes to the definition of voice grade access redundant. Be it through Rural Utilities Service loan covenants, through the context of the Advanced Services proceeding, through expansion of the Schools and Libraries program, or through the efforts being made with the Joint Conference on 706, we believe this matter is being reviewed elsewhere and that the current proposal may unnecessarily duplicate other efforts. We agree with the FCC's own report on the deployment of broadband in America and the finding that the process is occurring at a reasonable and timely rate.¹² Until such time as this conclusion is found to be untrue, we believe additional regulation is untimely.

We also have technical concerns that if the intent of this proposal is to improve data transfer rates in the rural areas, the mere widening of the bandwidth specification, without concurrent standard setting for other specifications (i.e., signal-to-noise ratio), will not achieve the stated goals of improved transfer rates. The cost of requiring complex equipment to tweak the existing analog phone network could prove prohibitive and result in a misallocation of resources; resources that might be better deployed in a true digital system.

V. Conclusion

The FPSC believes that the current services meet the criteria established in the Act and recommends maintaining the current list

¹² FCC Report on Deployment of Advanced Telecommunications, August 21, 2000.

of supported services at this time. In addition, the FPSC believes that expanding the definition to include advanced services or high-speed Internet access is not warranted in part because support is conditioned on the ability of a carrier to provide all of the supported services. As such, any proposal to expand the definition to include advanced services would not be technologically neutral.

While we wholeheartedly support the idea of quality Internet access for all Americans and understand its importance to our Nation, we do not believe that modification of the voice grade access is in the best interest of consumers.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6846

Dated: October 22, 2001

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of the Florida Public Service Commission will be furnished this date to the parties on the attached list.

/s/

Cynthia B. Miller, Esq.
Bureau of Intergovernmental Liaison

DATED: October 22, 2001

SERVICE LIST

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

The Honorable Kathleen Q. Abernathy
Commissioner
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

The Honorable Kevin J. Martin
Commissioner
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

The Honorable Nanette G. Thompson, Chair
Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, AK 99501

Arkansas Public Service Commission
P. O. Box 400
Little Rock, AR 72203-0400

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

David A. Beckett
Colorado Public Utilities Commission
1580 Logan Street, Office Level 2
Denver, CO 80203

Earl Poucher, Legislative Analyst
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

The Honorable Michael J. Copps
Commissioner
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Mary E. Newmeyer
Federal/Congressional Affairs
Alabama Public Service Commission
P. O. Box 991
Montgomery, AL 36101

Lori Kenyon, Common Carrier Specialist
Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, AK 99501-1693

Virginia J. Taylor, Richard A. Elbrecht
California Department of Consumer Affairs
400 R Street, Suite 3090
Sacramento, CA 95814-6200

Deborah S. Waldbaum
Colorado Office of Consumer Counsel
1580 Logan Street, Suite 610
Denver, Colorado 80203

Lawrence D. Crocker, III
District of Columbia Public Service Commission
1333 H Street NW, 2nd Floor
Washington, DC 20005

B.B. Knowles, Director
Utilities Division
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334-5701

The Honorable Robert B. Baker, Commissioner
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334-5701

Boise, ID 83720-0074 Donald L. Howell, II
General Counsel
Idaho Public Utilities Commission
P. O. Box 83720
Boise, ID 83720-0074

Indiana Utility Regulatory Commission
Suite E-306
302 W. Washington Street
Indianapolis, IN 46204

Indiana Office of the Consumer Counsel
100 North Senate Avenue
Indianapolis, Indiana 46204-2215

James Maret
Office of Consumer Advocate
350 Maple Street
Des Moines, Iowa 50319

General Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

Gayle T. Kellner
Louisiana Public Service Commission
P. O. Box 91154
Baton Rouge, LA 70821-9154

Ann Dean
Maryland Public Service Commission
16th Floor, 6 Saint Paul Street
Baltimore, Maryland 21202-6806

Mike Travieso
Office of People's Counsel
6th St. Paul Street, Suite 2102
Baltimore, Maryland 21202

Eileen Benner
Idaho Public Utilities Commission
P. O. Box 83720

Sarah A. Naumer
Federal/Congressional Affairs
Illinois Commerce Commission
160 N. LaSalle Street, Suite C-800
Chicago, Illinois 60601

Anne Becker
Office of Utility Consumer Counsel
100 North Senate Avenue
Indianapolis, Indiana 46204-2215

William H. Smith, Jr., Chief
Federal and Legislative Programs Coordinator
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319

Amy E. Dougherty
Kentucky Public Service Commission
Post Office Box 615
Frankfort, Kentucky 40602

Lawrence C. St. Branc
Louisiana Public Service Commission
P. O. Box 91154
Baton Rouge, LA 70821-9154

Joel B. Shifman, Esq.
Maine Public Utilities Commission
242 State Street
State House, Station 18
Augusta, Maine 04333-0018

Susan Stevens Miller, Assistant General Counsel
Maryland Public Service Commission
16th Floor, 6 St. Paul Street
Baltimore, MD 21202-6806

John G. Strand, Chairman
Michigan Public Service Commission
6545 Mercantile Way
Lansing, Michigan 48911

Richard J. Johnson, Brian T. Grogan
Minnesota Independent Coalition
Moss & Barnett, 4800 Northwest Center
90 South Seventh Street
Minneapolis, MN 55402-4129

St. Paul, Minnesota 55101-2130 Barbara
Meisenheimer, Martha S. Hogerty
Missouri Office of Public Counsel
Truman Bldg, 301 West High St, Ste 250
Jefferson City, MO 65101

The Honorable Bob Rowe
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

Deonne Bruning
Nebraska Public Service Commission
300 The Atrium
1200 N Street
Lincoln, Nebraska 68508

Maureen O. Helmer, Chairman
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Carl Johnson, Telecom Policy Analyst
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Illona A. Jeffcoat-Sacco, Director
Public Utilities Division
State of North Dakota
600 E. Boulevard, Dept 408
Bismarck, North Dakota 58505-0480

Richard W. Pace, Karen J. Hardie
Ohio Consumers Counsel
77 South High Street, 15th Floor
Columbus, Ohio 43266-0550

Honorable Joan H. Smith
Oregon Public Utility Commission
550 Capitol Street, NE, Suite 215
Salem, OR 97301-2551

Eric Swanson
Office of Attorney General
445 Minnesota Street
Suite 1200 WCL Tower

Eric B. Witte, Assistant General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102

Karen Finstad Hammel, Staff Attorney
Montana Public Service Commission
1701 Prospect Avenue
P. O. Box 202601
Helena, MT 59601-2601

Charles Bolle, Policy Adviser
Nevada Public Utilities Commission
1150 E. William Street
Carson City, NV 89701-3109

Thomas J. Dunleavy, Commissioner
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Terry Monroe
New York Public Service Commission
Three Empire Plaza
Albany, NY 12223

Robert S. Tongren, Andrea M. Kelsey,
David C. Bergman,
Ohio Consumers Counsel
77 South High Street, 15th Floor
Columbus, Ohio 43266-0550

General Counsel
Oklahoma Corporation Commission
P. O. Box 52000
Oklahoma City, OK 73152-2000

Barbara Combs
Oregon Public Utility Commission
550 Capitol Street, NE, Suite 215
Salem, Oregon 97301-2551

Philip F. McClelland
Pennsylvania Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Harrisburg, PA 17105-3265 David F. Johnson,
Scott Sawyer
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, R.I. 02888

South Dakota Public Utilities Commission
500 E. Capital Street
Pierre, SD 57501-5070

Honorable James A. Burg, Chairman
South Dakota Public Utilities Commission
The Capitol, 500 East Capitol
Pierre, SD 57501

Christopher Klein
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Suzi Ray McClellan
Texas Office of Public Utility Counsel
Post Office Box 13326
Austin, TX 78701-3326

Laurie Pappas
Office of Public Utility Counsel
Post Office Box 12397
Austin, Texas 78711-2397

William Irby, Director
Division of Communications
Virginia State Corporation Commission
1300 East Main Street - 9th Floor
Richmond, VA 23218

Honorable Marilyn Showalter, Chair
Washington Utilities & Transportation
Commission
1300 S. Evergreen Park Drive, SW

Maureen A. Scott
Assistant Counsel
Pennsylvania Public Utility Commission
P. O. Box 3265

R. Glenn Rhyne, Manager, Research Department
South Carolina Public Service Commission
P. O. Drawer 11649
Columbia, S.C. 29211

William J. Janklow, Governor
State of South Dakota
Executive Office - State Capitol
500 East Capitol
Pierre, South Dakota 57501-5070

Honorable Pam Nelson, Commissioner
South Dakota Public Utilities Commission
The Capitol, 500 East Capitol
Pierre, SD 57501

Texas Public Utility Commission
Post Office Box 13326
Austin, TX 78701-3326

Vicki Oswalt
Office of Policy Development
Public Utility Commission of Texas
Post Office Box 13326
Austin, TX 78701-3326

Peter Bluhm, Director of Policy Research
Vermont Public Service Board
112 State Street, 4th Floor,
Montpelier, VT 05620-2701

Tom Wilson, Economist
Washington Utilities & Transportation
Commission
1300 South Evergreen Park Drive SW
Olympia, Washington 98504

Honorable Richard Hemstad
Washington Utilities & Transportation
Commission
1300 S. Evergreen Park Drive, SW

Olympia, Washington 98504

Olympia, Washington 98504

Honorable Patrick J. Oshie
Washington Utilities & Transportation
Commission
1300 S. Evergreen Park Drive, SW
Olympia, Washington 98504

Cheyenne, Wyoming 82002
Honorable Steve Furtney, Deputy Chairman
Wyoming Public Service Commission
2515 Warren Avenue, Suite 300
Cheyenne, Wyoming 82002

National Association of
State Utility Consumer Advocates
c/o Pennsylvania Office of Consumer Advocate
Attn: Philip F. McClelland
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923

Honorable Albert Vann
National Black Caucus of State Legislators
Telecommunications & Energy Committee
New York State Assembly
Legislative Office Building #422
Albany, New York 12248

Terry D. Blackwood
Billy Jack Gregg
West Virginia Consumer Advocate
700 Union Building
Charleston, West Virginia 25301

Lisa M. Zaina
Ken Johnson
OPASTCO
21 Dupont Circle, NW, Suite 700
Washington, D.C. 20036

John Rother, Esquire
American Association of Retired Persons
601 E Street, NW
Washington, DC 20049

Ronald J. Binz, Debra R. Berlyn
John Windhausen, Jr.
Competition Policy Institute
1156 15th Street, NW, Suite 310
Washington, DC 20005

Honorable Steve Ellenbecker, Chairman
Wyoming Public Service Commission
2515 Warren Avenue, Suite 300

Kristin H. Lee, Commissioner
Wyoming Public Service Commission
2515 Warren Avenue, Suite 300
Cheyenne, Wyoming 82002

Michael A. McRae
D.C. Office of the People's Counsel
1133 15th Street, NW, Suite 500
Washington, D.C. 20005

Mark Savage, Stefan Rosenzweig,
Carmela Castellano
Public Advocates, Inc.
1535 Mission Street
San Francisco, CA 94103

Elizabeth A. Noel
Sandra Mattavous-Frye
DC Office of the People's Counsel
1133 Fifteenth Street, NW, Suite 500
Washington, D.C. 20005-2710

Kevin J. Donnellan, Legislation and Public Policy
Bradley C. Stillman, Telecommunications Policy
American Association of Retired Persons
601 E Street, NW
Washington, D.C. 20049

Nancy C. Garrison
Catherine O'Sullivan
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 3224
Washington, DC 20530-001

David L. Deming
Senecom Voice Processing Systems
6 Blossomwood Court
St. Louis, Missouri 63033-5202

Regina McNeil, Richard A. Askoff
National Exchange Carrier Association
80 South Jefferson Road
Whippany, NJ 07981

National Telephone Cooperative Association
4121 Wilson Boulevard, Tenth Floor
Arlington, Virginia 22203-1801